THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.19083 of 2002

Dated:07.06.2007

Between:

Bandagorla Gopaiah, S/o.Narsaiah, and others.

…Petitioners

and

The District Collector, Khammam District, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

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ORDER: (Per the Hon'ble Sri Justice V.V.S.Rao)

The petitioners, who are nine in number, are aggrieved by the order of the Agent to Government-cum-District Collector, Khammam, in C.M.A.No.5 of 2001, dated 20.06.2002. In this Writ Petition they seek a writ of mandamus declaring the action of respondents 1 to 4 herein in trying to demolish their houses pursuant to the impugned order, as illegal and arbitrary, and for a consequential direction to restrain respondents 1 to 4 from demolishing their houses.

The petitioners are residents of Gopalaraopet, Hamlet of Pinapaka Village in Khammam District. They are allegedly in possession of house sites admeasuring Ac.0.01 gunta to Ac.0.04 guntas comprised in Survey No.359 of their Village. They allege that they raised houses, and from the time of their ancestors, they have been staying in the houses. In July 2002, the second respondent informed the petitioners that orders were passed by the original authority as well as the appellate authority under the Andhra Pradesh Scheduled areas Land Transfer Regulation, 1959 (Regulation No.I of 1959), for eviction. With this cause of action, the petitioners filed the instant Writ Petition after obtaining a copy of the order in C.M.A.No.5 of 2001.

A counter affidavit is filed on behalf of respondents 1 to 4. The

contents thereof in brief may be noticed. The Special Deputy Collector (TW), Paloncha, passed orders in LTR Cases in respect of the land admeasuring Acs.2.28 guntas in Survey No.359 of Gopalaraopeta Village in favour of the occupants of the land, Smt.Dodda Suseelamma and Katta Rajeswar Rao. Aggrieved by the same, the fifth respondent herein, namely, Pasal Venkat Laxmi, resident of the same Village, preferred C.M.A.No.5 of 2001 before the first respondent, who after verifying the record, passed orders for eviction of Suseelamma and Rajeswar Rao. Against the same, a revision petition was filed before the Government, which is still pending.

Learned Counsel for the petitioners raised only ground that the petitioners are not parties either before the original authority or appellate authority. Therefore, pursuant to the orders of the appellate authority, they cannot be evicted without proper due process of law. The submission made is not seriously disputed, nor it can be denied. A perusal of the order passed by the Agent to Government would show that in the appeal filed by the fifth respondent, two persons, namely, Suseelamma and Rajeswar Rao, were alone parties. Secondly, the petitioners contend that the respondents before the first respondent were ordered to be evicted from the land admeasuring Acs.2.28 guntas in Survey No.359 of their Village, but the land in possession of the petitioners does not form part of the said land. They also contend that if a proper opportunity is given, they would be able to prove before the appropriate authority. Learned Counsel also seeks liberty to file appeal before the Agent to Government in this regard.

After giving due consideration, we are not able to countenance the submission that the petitioners should be given liberty to file appeal before the Agent to Government. In this case, an order was passed by the Agency Divisional Officer (Special Deputy Collector) rejecting the claim for eviction, and therefore, there could not have been any appeal by the petitioners. The appeal filed by the fifth respondent, is however, different, as she was claiming that Suseelamma and Rajeswar Rao were in possession of the land in contravention of Section 3(1)(a) of Regulation No.I of 1959. In this background, we deem it appropriate to give liberty to the petitioners to prefer a revision petition separately against the order of the first respondent dated 20.06.2002 in C.M.A.No.5 of 2001. To enable the petitioners to avail the remedy effectively, we order *status quo* as on today. Two weeks time from the date of receipt of a copy of this order is granted to the petitioners for filing the revision before the Government of Andhra Pradesh.

The Writ Petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

(G.V.SEETHAPATHY, J)

07.06.2007
Note: Issue C.C in one week.
B/o.
vs